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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,164	02/13/2002	Soohyun Ham	M-12511 US	8634
32681	7590	03/01/2006	EXAMINER	
PLANTRONICS, INC. 345 ENCINAL STREET P.O. BOX 635 SANTA CRUZ, CA 95060-0635			DABNEY, PHYLESHA LARVINIA	
			ART UNIT	PAPER NUMBER
			2646	
DATE MAILED: 03/01/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/076,164	HAM, SOOHYUN
	Examiner Phylesha L. Dabney	Art Unit 2646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 February 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 29-31 is/are allowed.
- 6) Claim(s) 1-3,5-8,10-21,27 and 28 is/are rejected.
- 7) Claim(s) 4,9 and 22-26 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

This action is in response to the amendment received 7 February 2005 and interview conducted on 10 March 2005, wherein claims 1-31 are pending. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, and 5-6 are rejected under 35 U.S.C. 102(e) as being anticipated by

**Nagayoshi** (U.S. Patent No. 6,603,863).

Regarding claims 1, 3, and 5-6, Nagayoshi teaches an ear clasp headset, comprising: a speaker capsule (16) for transmitting sound to a user's ear, wherein the speaker capsule is capable of contacting an inner recess of the user's ear; a headset body (40) operably coupled to the speaker capsule, wherein the headset body has a curved profile substantially perpendicular to the plane of the user's ear (fig. 6); and a headset tail (34) operably coupled to the headset body, wherein the headset tail comprises a curved structure capable of flexing open and close for contacting a lower portion of the user's ear.

Regarding claim 2, Nagayoshi teaches the ear clasp headset of claim 1, wherein the speaker capsule (16) comprises a transducer and a speaker faceplate (48).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Burris et al** (U.S. Patent No. 5,708,724) in view of **Braund** (U.S. Patent No. 6,373,942).

Regarding claims 8, 10, and 13, Burris teaches an ear clasp headset, comprising: a speaker capsule (18) for transmitting sound to a user's ear, wherein the speaker capsule (18) is capable of contacting an inner recess of the user's ear; a headset body (10) operably coupled to the speaker capsule, wherein the headset body (10) is capable of contacting an outer portion of the user's ear; a headset tail (16) operably coupled to the headset body, wherein the headset tail (16) comprises a curved structure capable of flexing open and close (fig. 6) for contacting a lower portion of the user's ear.

Burris does not teach the headset body includes a call switch.

Braund teaches a headset body including a call switches (153) in the form of an alphanumeric keypad for enhancing the handsfree and multiuse capability of the headset so that a separate keypad device is not needed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to included a call switch on the invention fo Burris as taught by Bruand for enhanced useability.

Regarding claim 12, The ear clasp headset of claim 1, wherein the headset tail comprises a wire (fig. 9, microphone wire).

Claims 8, 11, 13-16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Jensen et al** (U.S. Patent No. 6,101,260) in view of **Braund** (U.S. Patent No. 6,373,942).

Regarding claims 8, 11, 13 and 18, Jensen teaches an ear clasp headset, comprising: a speaker capsule (202, 204, 206, 210, 408, 412) for transmitting sound to a user's ear, wherein the speaker capsule is capable of contacting an inner recess of the user's ear; a headset body (102a, 102b, 106) operably coupled to the speaker capsule, wherein the headset body is capable of contacting an outer portion of the user's ear; a headset tail (108, 110) operably coupled to the headset body, wherein the headset tail comprises a curved structure capable of flexing open and close for contacting a lower portion of the user's ear.

Jensen does not teach the headset body includes a call switch.

Braund teaches a headset body including a call switches (153) in the form of an alphanumeric keypad for enhancing the handsfree and multiuse capability of the headset so that a separate keypad device is not needed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to included a call switch on the invention fo Burris as taught by Bruand for enhanced useability.

Regarding claim 14, the combination of Jensen and Braund teaches the ear clasp headset of claim 1, further comprising a microphone (212) operably coupled to the headset body.

Regarding claim 15, the combination of Jensen and Braund teaches the ear clasp headset of claim 14, wherein the microphone (212) is embedded in a pod (118) along at least one wire (312) coupling the transducer to an audio source.

Regarding claim 16, the combination of Jensen and Braund teaches the ear clasp headset of claim 14, wherein the microphone (212) is operably coupled to a boom (114, 116), which is operably coupled to the headset body.

Regarding claim 19, the combination of Jensen and Braund teaches the speaker capsule and the headset body are operably coupled together by a movable joint (Jensen, 106).

Claims 17, 20, 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Nagayoshi** (U.S. Patent No. 6,603,863) in view of **Fitzgerald** (U.S. Patent No. 5,113,428).

Regarding claims 17, 20, Nagayoshi teaches an ear clasp headset, comprising: a speaker capsule (16) for transmitting sound to a user's ear from a transducer; a headset body (40) operably coupled to the speaker capsule, wherein the headset body comprises a curved structure housing at least one wire operably coupling the transducer to an audio source; a headset tail (34) operably coupled to the headset body, wherein the headset tail comprises a curved structure capable of flexing open and close for contacting a lower portion of the user's ear.

Nagayoshi fails to teach a microphone operably coupled to the headset body for transmitting sound from the user.

However, Fitzgerald teaches operably coupling a microphone (62) to a headset body (12, 14) for providing 2-way communication. Therefore, it would have been obvious to include a microphone onto the invention of Nagayoshi as taught by Fitzgerald for beneficially providing 2-way communication.

Regarding claim 27, the combination of Nagayoshi and Fitzgerald teaches the ear clasp headset of claim 17, wherein the microphone (62) is embedded in a pod (housing of the microphone) inherently along at least one wire operably coupling the transducer to the audio source.

Regarding claim 28, the combination of Nagayoshi and Fitzgerald teaches the ear clasp headset of claim 17, wherein the microphone (62) is operably coupled to a boom (60) which is operably coupled to the headset body.

Claims 7 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagayoshi (U.S. Patent No. 6,603,863).

Regarding claims 7 and 21, Jensen does not teach the ear clasp headset of claim 1, wherein the headset body further comprises a detachable accent. However, it is known to apply stickers, caps, other accents, etc. to the body of headsets for decoration or identification. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

include accents on to the body of Jensen for decorative aesthetic appeal.

***Allowable Subject Matter***

Claims 4, 9,22-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 29-31 are allowed. With respect to these claims, the improvement comprises an ear clasp comprising: a headset body having a curved profile substantially perpendicular to the plane of the user's ear, coupled to a speaker capsule; and a flexible headset tail which clips the lower portion of the user's ear, as substantially described and connected with the other functional language presented in recited claim 29.

***Response to Arguments***

Applicant's arguments with respect to claims 8-16 have been considered but are moot in view of the new ground(s) of rejection.

With respect to the interview conducted on 3/10/05, the addition of the language "answer/call function" was found to be insufficient to allow case.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L. Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
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**Or faxed to:**

(703) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "Proposed" or "Draft" when submitting an informal amendment.

**Hand-delivered responses should be brought to:**

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February 15, 2006

PLD



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SUPERVISORY PATENT EXAMINER